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Catherine A. Rinaldi
President



January 16, 2025

Via ECF

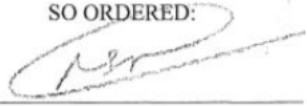
Hon. Nelson S. Román
United States District Court,
Southern District of New York
300 Quarropas Street
White Plains, New York 10601

The Court DENIES *pro se* Pltfs request for a pre-motion conference to file a motion to stay the proceeding (ECF No. 101). The Court is in receipt of Defts' motion to dismiss (ECF No. 85) and Defts' time to serve an answer or otherwise respond to the First Amended Complaint is tolled until a time after the disposition of that motion. The Court will inform Defts of the deadline to answer or otherwise respond, if warranted, when it issues its decision on the pending motion to dismiss. The Clerk of Court is kindly directed to mail a copy of this endorsement to *pro se* Pltf at the address listed on ECF and show service on the docket.

RE: Teko Foli v. Metro-North Commuter Railroad
File No.: 23-CV-05982 (NSR)

SO ORDERED:

Dated: Jan. 16, 2025
White Plains, NY


NELSON S. ROMÁN
United States District Judge

Dear Honorable Judge Roman:

This office represents the interests of the Defendants Metro-North Railroad and Metro-North MTA Police. Please accept this opposition letter in response to Plaintiff's January 10, 2025 letter requesting a pre-motion conference to file a motion to stay the proceeding. ECF 101.


Defendants filed a timely motion to dismiss to Plaintiff's First Amended Complaint. As such, Defendants do not have to file an answer to Plaintiff's First Amended Complaint. FRCP 12 (a)(4) (A). *Finnegan v. Univ. of Rochester Med. Ctr.*, 180 F.R.D. 247, 250 (W.D.N.Y. 1998) (holding that the plain language of Rule 12(a)(4) contemplates suspending the time to response to the entire complaint, not just to claims that are the subject of a partial motion to dismiss)

Here, Defendants' motion to dismiss the First Amended Complaint challenged all claims. Defendants' time to serve an answer is tolled until such time after this Court issues its decision on their motion to dismiss. This office assumes that this Court's Order will set a definitive time for the Defendants to serve an answer, if this Court denies the Defendants' motion.

Accordingly, Defendants respectfully request that Plaintiff's proposed motion is without merit and without a legal basis; thereby eliminating the need for a pre-motion conference.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 1/16/2025

Respectfully yours,



Alan Muraidekh
Associate Counsel
(212) 340-2203

cc: Teko Foli (Via ECF)

MEMO ENDORSED